

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM J. MURRAY,

Plaintiff,

v.

TXU CORP. *et al.*,

Defendants.

)
)
) Docket No. 04-cv-12123-NG
)
)
) (Related to Cause
) No. 3:03 CV-088P, U.S. District
) Court, Northern District of
) Texas, Dallas Division)
)
)
)

AFFIDAVIT OF CHRISTOPHER H. M. CARTER

CHRISTOPHER H. M. CARTER does hereby depose and state as follows:

1. I am at least eighteen years of age and competent to testify. I am a partner in the law firm of Hinckley Allen & Snyder, LLP and a member in good standing of the bar of the Commonwealth of Massachusetts. In connection with the above-captioned matter, I serve as outside legal counsel to non-party American National Power, Inc. ("ANP").

2. Attached hereto as **Exhibit A** are true and accurate redacted copies of the billing statements submitted to ANP by Hinckley Allen & Snyder, LLP for legal fees and costs incurred in connection with this matter from March 2004 through August 2004.

3. Attached hereto as **Exhibit B** are true and accurate redacted copies of the billing statements generated internally by Hinckley Allen & Snyder, LLP, but not yet submitted to ANP, for legal fees and costs incurred in connection with this matter from September 2004 through November 2004.

Dated: November 4, 2004

/s/ Christopher H.M. Carter
Christopher H.M. Carter

EXHIBIT A

HINCKLEY, ALLEN & SNYDER
1500 Fleet Center
Providence, RI 02903

American National Power, Inc.
David T. Musselman, Esq.
52 Forest Street, Suite 102
Marlborough, MA 01752

Bill Number: (RA) 623477
Bill Date: 15 Apr 2004
Cut-Off Date: 31 Mar 2004

Client: 047112 American National Power, Inc.

For Professional Services Rendered:

Number	Name	Fees	Disbursements
0122275	ANP-TXU Subpoena Opposition	\$ 15,799.00	\$ 1,069.17
Total Fees		\$ 15,799.00	
Total Disbursements		\$ 1,069.17	
Total Fees and Disbursements		\$ 16,868.17	

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HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 623477
 Bill Date: 15 Apr 2004

Client: 047112 American National Power, Inc.

Services:

Date	Attorney / Legal Assistant	Description	Hours	Rate	Amount
03-Mar-2004	Gottlieb	Telephone conference [REDACTED] [REDACTED] regarding subpoena [REDACTED]	0.20	380.00	76.00
05-Mar-2004	Carter	Confer with [REDACTED] regarding subpoena to ANP.	0.20	300.00	60.00
08-Mar-2004	Carter	Confer with [REDACTED] regarding Objection to Motion to Compel.	0.20	300.00	60.00
09-Mar-2004	Carter	Objection to motion to compel.	0.30	300.00	90.00
15-Mar-2004	Carter	Meeting with Mr. Day regarding opposition [REDACTED] [REDACTED]	0.20	300.00	60.00
15-Mar-2004	Day	Review and analyze case file and outline opposition to TXU's Motion to Compel Production of Documents [REDACTED]. [REDACTED]	1.60	220.00	352.00
16-Mar-2004	Carter	Drafting and revisions to affidavits in support of Objection to Motion to Compel; telephone conferences [REDACTED]. [REDACTED]; review documents and correspondence pertaining to the same.	2.10	300.00	630.00
16-Mar-2004	Day	Draft Opposition to TXU's Motion to Compel Production of Documents concerning Mr. Murray's post-employment with non-party ANP.	1.20	220.00	264.00
17-Mar-2004	Carter	Confer with Mr. Day regarding Opposition to Motion to Compel; coordinate research and drafting of Opposition.	0.50	300.00	150.00
17-Mar-2004	Day	Draft and revise opposition to defendant TXU's motion to compel discovery and cross-motion for protective order and costs; conduct related legal research; [REDACTED] [REDACTED]	10.30	220.00	2,266.00

Date	Matter	Attorney / Legal Assistant	Description			
17-Mar-2004	Angelini	[REDACTED]	Research re: [REDACTED] law on Fed.R.Civ.P. 45 (subpoenas), Local Rule 37.1 [REDACTED] multiple conferences w/ D. Day re: results of research; conference w/ D. Day and C. Carter [REDACTED] [REDACTED] [REDACTED] to [REDACTED] On non-party matters. [REDACTED]	5.50	190.00	1,045.00
18-Mar-2004	Carter	[REDACTED]	Further drafting of affidavits in support of Opposition to Motion to Compel; telephone conversation with Ms. Bugdiariello regarding discovery and further drafting and revisions to Opposition; [REDACTED]	3.60	300.00	1,080.00
18-Mar-2004	Day	[REDACTED]	Revise opposition conduct related legal research.	3.40	220.00	748.00
19-Mar-2004	Carter	[REDACTED]	Draft Opposition to Motion to Compel.	0.70	300.00	210.00
19-Mar-2004	Day	[REDACTED]	Revise opposition confer with C. Carter conduct related legal research.	9.70	220.00	2,134.00

HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 623477
 Bill Date: 15 Apr 2004

Client: 047112 American National Power, Inc.

ate	Matter	Attorney / Legal Assistant	Description			
21-Mar-2004	Carter		Confer with Mr. Day regarding Opposition to Motion to Compel; [REDACTED] revisions to the same.	1.10	300.00	330.00
21-Mar-2004	Day		Revise opposition [REDACTED] [REDACTED] [REDACTED]	2.20	220.00	484.00
22-Mar-2004	Carter		Legal analysis [REDACTED] [REDACTED] complete drafting and revisions to Objection; draft protective order in connection with Objection; coordinate filing of Objection.	8.60	300.00	2,580.00
22-Mar-2004	Day		Revise opposition [REDACTED] [REDACTED] [REDACTED] v. [REDACTED]	7.70	220.00	1,694.00
23-Mar-2004	Carter		Telephone conferences with TXU counsel regarding potential settlement issues and filing of Opposition to Motion to Compel; confer with District Court regarding filing issues [REDACTED] [REDACTED] [REDACTED]	1.10	300.00	330.00
23-Mar-2004	Day		Revise opposition [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	1.60	220.00	352.00
			[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]			
24-Mar-2004	Carter		Confer with Federal District Court regarding hearing on Opposition to Motion to Compel; confer with counsel for TXU regarding the same, and file request for hearing; confer with	1.70	300.00	510.00

HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 623477
Bill Date: 15 Apr 2004

Client: 047112 American National Power, Inc.

te	Matter	Attorney / Legal Assistant	Description
			TXU counsel regarding Reply and Surreply memoranda; [REDACTED] [REDACTED] draft letter to TXU counsel regarding settlement.
Subtotal For:	0122275	ANP-TXU Subpoena Opposition	65.80 *****
Total Hours			65.80 15799.00

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Bill Number: (RA) 823477
Bill Date: 15 Apr 2004

Client: 047112 American National Power, Inc.

Disbursements:

Date	Description	Value
03/31/04	Duplicating	94.20
03/31/04	Postage	21.30
03/31/04	Telephone	64.60
03/31/04	Telecopy	7.00
03/31/04	Online Research	882.07
TOTAL DISBURSEMENTS:		\$ 1,069.17

HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 623477
Bill Date: 15 Apr 2004

Client: 047112 American National Power, Inc.

Summary of Hours Worked:

Attorney/Legal Assistant	Total Hours
Gottlieb	0.20
Carter	20.30
Day	37.70
Angelini	5.50
McCarthy	2.10

	65.80

HINCKLEY, ALLEN & SNYDER
1500 Fleet Center
Providence, RI 02903

American National Power, Inc.
David T. Musselman, Esq.
2 Forest Street, Suite 102
Marlborough, MA 01752

Bill Number: (RA) 628110
Bill Date: 31 May 2004
Cut-Off Date: 30 Apr 2004

Client: 047112 American National Power, Inc.

For Professional Services Rendered:

Number	Name	Fees	Disbursements
0122275	ANP-TXU Subpoena Opposition	\$ 16,378.00	\$ 619.94
Total Fees		\$ 16,378.00	
Total Disbursements.....		\$ 619.94	
Total Fees and Disbursements.....		\$ 16,997.94	

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HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 628110
Bill Date: 31 May 2004

Client: 047112 American National Power, Inc.

Services:

Date	Attorney / Legal Assistant	Description	Hours	Rate	Amount
30-Mar-2004	Carter	Telephone conference with TXU counsel regarding Motion to Compel; [REDACTED] [REDACTED]	1.20	300.00	360.00
31-Mar-2004	Carter	Telephone conference with TXU counsel regarding supplemental briefing on Motion to Compel; [REDACTED] [REDACTED] draft correspondence to TXU counsel regarding TXU's Reply Brief.	1.50	300.00	450.00
02-Apr-2004	Day	Conduct legal research [REDACTED] [REDACTED] [REDACTED] [REDACTED]	3.20	220.00	704.00
04-Apr-2004	Carter	Review and analysis of Surreply Memorandum and supporting Affidavits and records filed by TXU; begin drafting Surreply Memorandum and Motion in support of the same.	3.70	280.00	1,036.00
05-Apr-2004	Carter	Conferences with Mr. Day regarding research into Surreply issues; review correspondence from TXU counsel.	0.60	280.00	168.00
05-Apr-2004	Day	Conduct legal research concerning [REDACTED] under Federal Rule 45 and Local Rule 37.1 [REDACTED] [REDACTED] [REDACTED] draft memorandum [REDACTED] [REDACTED] [REDACTED]	6.70	220.00	1,474.00
05-Apr-2004	Roff	Legal research for Attorney Day.	0.10	140.00	14.00

Case	Attorney / Legal Assistant	Description
05-Apr-2004 Angelini	[REDACTED]	Research [REDACTED] F.R.C.P. 37(c) [REDACTED] [REDACTED] [REDACTED]
06-Apr-2004 Carter		Telephone conference with Ms. Pucciariallo regarding surreply; review Reply by TXU; drafting of Surreply motion and memorandum.
06-Apr-2004 Day		Conduct legal research [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] draft memoranda concerning same.
07-Apr-2004 Carter		[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] draft Motion to Strike allegations regarding service of December 2003 subpoena
07-Apr-2004 Day		[REDACTED] [REDACTED] prepare surrepley to TXU's reply to ANP's opposition to TXU's motion to compel discovery; conduct related legal research.
07-Apr-2004 Roff		Legal research for Attorney Carter.
08-Apr-2004 Carter		Drafting of Motion and supporting memorandum [REDACTED] [REDACTED]

Client: 047112 American National Power, Inc.

Date	Matter	Attorney / Legal Assistant	Description			
			and Surreply; multiple telephone conferences with Ms. Pucciariello regarding Rule 11 motion, Surreply, and affidavits; draft Surreply memorandum of law; telephone conference with [REDACTED] regarding legal research into Rule 11 issues and recovery of costs by ANP.			
08-Apr-2004	Day		Prepare motion to recover costs [REDACTED] [REDACTED] [REDACTED] [REDACTED].	0.50	220.00	110.00
09-Apr-2004	Carter		[REDACTED] [REDACTED] [REDACTED] [REDACTED] Motion to strike; Surreply memorandum; supporting affidavits; and correspondence to TXU counsel; telephone conference [REDACTED] [REDACTED] completion of motions; coordinate filing of the same. Prepare Surreply, motion to strike, [REDACTED] [REDACTED] conduct related legal research; file Surreply and motion to strike; serve papers. Confer [REDACTED] regarding case status. Review pleadings filed by TXU. Review and analyze TXU's opposition to ANP's motion to strike; conduct related legal research.	2.40 5.30	280.00	2,044.00
09-Apr-2004	Day		completion of motions; coordinate filing of the same. Prepare Surreply, motion to strike, [REDACTED] [REDACTED] conduct related legal research; file Surreply and motion to strike; serve papers.	6.40 4.40	220.00	1,408.00
23-Apr-2004	Carter		Confer [REDACTED] regarding case status.	0.10	280.00	28.00
27-Apr-2004	Carter		Review pleadings filed by TXU.	0.50	280.00	140.00
27-Apr-2004	Day		Review and analyze TXU's opposition to ANP's motion to strike; conduct related legal research.	1.00	220.00	220.00
30-Apr-2004	Carter		Telephone conference with Ms. Pucciariello regarding case status.	0.20	280.00	56.00
Subtotal Fee: 0122278		ANP-TXU Subpoena Opposition		66.10		*****
Total Hours					66.10	16378.00

HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 628110
Bill Date: 31 May 2004

Client: 047112 American National Power, Inc.

Disbursements:

Date	Description	Value
04/30/04	Duplicating	\$1.13
04/30/04	Postage	5.16
04/30/04	Messenger Service	10.00
04/30/04	Telephone	5.84
04/30/04	Telecopy	23.00
04/30/04	Online Research	516.82
TOTAL DISBURSEMENTS:		\$ 619.94

HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 628110
Bill Date: 31 May 2004

Client: 047112 American National Power, Inc.

Summary of Hours Worked:

Attorney/Legal Assistant	Total Hours
Carter	30.50
Day	34.50
Roff	0.30
Angelini	0.80

	66.10

HINCKLEY, ALLEN & SNYDER
1500 West Center
Providence, RI 02903

American National Power, Inc.
David T. Musselman, Esq.
62 Forest Street, Suite 102
Marlborough, MA 01752

Bill Number: (RA) 830844
Bill Date: 23 Sep 2004
Cut-Off Date: 31 Aug 2004

Client: 047112 American National Power, Inc.

For Professional Services Rendered:

Number	Name	Fees	Disbursements
0122275	ANP-TXU Subpoena Opposition	\$ 1,848.00	\$ 0.00
Total Fees		\$ 1,848.00	
Total Disbursements.....		\$ 0.00	
Total Fees and Disbursements.....		\$ 1,848.00	

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HINCKLEY, ALLEN & SNYDER

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Bill Number: (RA) 636844
Bill Date: 23 Sep 2004

Client: 047112 American National Power, Inc.

Services:

Date	Attorney / Legal Assistant	Description	Hours	Rate	Amount
09-Aug-2004	Carter	Telephone conference with Ms. Pucciaricello regarding TXU proposal to resolve litigation; telephone conference with TXU counsel.	1.10	280.00	308.00
10-Aug-2004	Carter	Telephone conference with TXU counsel; [REDACTED]	0.90	280.00	252.00
11-Aug-2004	Carter	Confer with TXU counsel.	0.20	280.00	56.00
16-Aug-2004	Carter	Review correspondence [REDACTED] revisions to TXU letter.	2.20	280.00	616.00
18-Aug-2004	Carter	Conferences [REDACTED] complete letter to TXU counsel regarding subpoena.	0.90	280.00	252.00
19-Aug-2004	Carter	Confer with [REDACTED] regarding response to TXU draft subpoena; complete correspondence to TXU regarding the same.	0.80	280.00	224.00
27-Aug-2004	Carter	Review TXU response to ANP discovery proposal; correspondence [REDACTED] regarding the same.	0.50	280.00	140.00
Subtotal For: 0122275		ANP-TXU Subpoena Opposition	6.60		1,848.00
Total Hours			6.60		1848.00

EXHIBIT B

HINCKLEY, ALLEN & SNYDER
 1500 West Center
 Providence, RI 02909

American National Power, Inc.
 David T. Musselman, Esq.
 52 Forest Street, Suite 102
 Marlborough, MA 01752

Bill Number: (RA) 823477
 Bill Date: 15 Apr 2004
 Cut-Off Date: 31 Mar 2004

Client: 047112 American National Power, Inc.

For Professional Services Rendered:

Number	Name	Fees	Disbursements
0122275	ANP-TXU Subpoena Opposition	\$ 15,799.00	\$ 1,069.17
	Total Fees	\$ 15,799.00	
	Total Disbursements	\$	1,069.17
	Total Fees and Disbursements	\$ 16,868.17	

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HINCKLEY, ALLEN & SMYDER
1500 Fleet Center
Providence, Rhode Island 02903

Engagement Attorney 0185 GANBARR

047112 American National Power, Inc.
0122275 ANP-TXU Subpoena Opposition

Worksheet Number
Invoice Number: *****

American National Power, Inc.
David T. Musselman, Esq.
62 Forest Street, Suite 102
Marlborough, MA 01752

Billing Actions:
Services:

Bill Thru: __/__/__

Bill Date: __/__/__

Bill O/A: _____

Acct. Mov. Balance: \$1,428.00 as of 11/04/04

Last Bill Thru Date: 10/31/04

Bill Template: RA
Group Template: J1

Billing Instructions :

FOR PROFESSIONAL SERVICES

Date	Narrative	Bill Hours	Atty. Carter	Atty No.	Index	Task	Worked Hours	Bill Value
10/05/04	Telephone conference with TXU counsel regarding subpoenas.	0.20	Carter	1042	4811731		0.20	\$6.00
10/06/04	Correspond with TXU counsel regarding subpoena issues.	0.20	Carter	1042	4811734		0.20	\$6.00
10/15/04	Review pleadings and correspondence filed by TXU with the federal District Court; [REDACTED]	0.80	Carter	1042	4816688		0.80	224.00
10/15/04	Gagne. Legal research.	0.10	Roff	3076	4826910		0.10	14.00
10/19/04	Draft objection to TXU's October 5, 2004 letter requesting hearing on TXU's Motion to Compel Discovery from non-party ANP; conduct related legal research.	2.70	Day	2211	4820169		2.70	594.00
10/19/04	D. Day. Provided court opinions.	0.20	Mogilevskaya	3142	4823796		0.20	12.00
10/20/04	Draft and revise response letter to TXU per Rule 43.	1.30	Carter	1042	4819814		1.30	364.00
10/26/04	Draft response to ex parte letter submitted by TXU with the District Court; [REDACTED]	2.60	Carter	1042	4823287		2.60	728.00
10/26/04	[REDACTED] prepare for hearing on motion to compel.	3.70	Day	2211	4827485		3.70	814.00
10/27/04	Draft, revise, and file ANP's response to TXU's 10/5/04 letter to Court; conduct legal research in preparation for 10/27/04 hearing; confer with the Court concerning same.	6.10	Carter	1042	4823291		6.10	1,708.00
	Prepare for, and represent ANP at Federal District Court hearing on motion to compel; conference with Mr. Day regarding follow up research issues; [REDACTED]							

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Engagement Attorney 0135 Garbarr

HINCKLEY, ALLEN & SNYDER
1500 Fleet Center
Providence, Rhode Island 02903

				Worksheet Number		
047113	American National Power, Inc.	2.80 Day	2211	4827488	2.80	616.00
10/27/04	Draft motion for recovery of legal fees; review and analyze client billing statements; confer with C. Carter regarding same.					
10/28/04	Draft protective order regarding production of employment file; [REDACTED]	0.80 Carter	1042	4823302	0.80	224.00
10/28/04	Draft and revise motion for recovery of legal fees; review and analyze client billing statements; confer with C. Carter regarding same; revise and file proposed protective order.	3.80 Day	2211	4827488	3.80	836.00
10/30/04	Draft and revise motion for attorney's fees.	0.60 Carter	1042	4823308	0.60	140.00
				Matter Total	25.80	6,386.00
				Billed On Account		0.00
				Unallocated Credits		0.00
				Net Unbilled		6,386.00

Total Services:

Is the amount billed 95% or less of Net Unbilled: () Y () N

Amount billed - Fees

If yes, the following approvals are required:

Practice Group Leader: _____
Supervising Attorney: _____

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Engagement Attorney 0185 Gasbarr

HINCKLEY, ALLEN & SMYDER
 1500 Fleet Center
 Providence, Rhode Island 02903

Worksheet Number

047112 American National Power, Inc.

		9.24	002	9.24
11/03/04	Duplicating	1.00	005	1.00
11/03/04	Telephone	101.74	023	101.74
11/03/04	Online Research	7.00	098	7.00
11/03/04	Cash Disb. - CARTER, CHRISTOPHER-Reimbursement	3636194		
	for cost of Taxi to hearing on 10/27/04			
	Voucher No: 734954 Check No: 164197			
			Disbursement Total	119.06
			Billed On Account	0.00
			Unbilled	119.06

Amount Billed - Costs

If yes, the following approvals are required:
 Practice Group Leader: _____

Total Disbursements:

Are disbursement chargeoffs or write-downs greater than \$100? () Y () N

HINCKLEY, ALLEN & SNYDER
1600 Fleet Center
Providence, Rhode Island 02903

Page 4 (4)
Engagement Attorney 0185 Gasbarr

Worksheet Number

047112 American National Power, Inc.

Attorney No.	Init	Hours	Standard Value	Extended Value
1042	CHMC	12.50	2,250.00	3,500.00
2211	DAD	13.00	2,950.00	2,950.00
2078	JR	0.10	14.00	14.00
3142	YM	0.20	12.00	12.00
		25.80	6,126.00	6,386.00